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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,225	03/30/2004	Dean J. Mayerle	17354	3862

41052 7590 10/05/2005

CNH AMERICA LLC  
INTELLECTUAL PROPERTY LAW DEPARTMENT  
700 STATE STREET  
RACINE, WI 53404

EXAMINER
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COZAD, JULIANNE M

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

*Me*

**Office Action Summary**

Application No.

10/813,225

Applicant(s)

MAYERLE, DEAN J.

Examiner

Julianne M. Cozad

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 September 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 14 is/are rejected.
- 7) ☒ Claim(s) 9-13 and 15-19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/30/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 mentions a split ring in line 1 that is associated with the equalizing apparatus. However, a separate split ring along with the equalizing apparatus has not been previously disclosed in the specification. It appears that the claim should be re-written in a similar manor to claim 9, which further limits the equalizing apparatus to be a split ring.

3. Claims 2-7 are objected to because of the following informalities: start of the preamble of dependant claims 2-7 is not consistent with preamble of independent claim 1. "The equalizing apparatus" should be re-written as--the equalizing meter apparatus--  
Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1,3,8 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Gregor [US 5,996,515] as cited by applicant.

With respect to claim 1, Gregor '515 discloses a plurality of fluted metering sections 145 and 300 rotatably mounted on a shaft; each of these fluted metering sections includes a plurality of radial outward fluted segments 275 and 315 respectively configured to meter the delivery of the granular product. In addition, an equalizing apparatus 330 with a plurality of inward protrusions 340 that engage the plurality of the fluted segments of the metering device 145. The snap rings 305 allow user to detach and reconnect metering device to metering section.

With respect to claim 3, a split ring 305 has a first free end and a second free end and is configured to secure to the metering section.

With respect to claim 8, Gregor '515 discloses a frame 15 operable to be towed, a product tank 20 mounted on frame, a conveyance system shown in Figure 7, a meter box 142, a granular product distributor 145, a meter roller assembly shown in Figure 10, a shaft 150, a plurality of roller sections 300, 145, 310, 355 and 330, at least one of which is fluted 145 and 330. At least one fluted metering section includes a plurality of fluted segments (teeth along length of shaft axis) and an equalizing apparatus 330 having at least one protrusion 340 to engage the plurality of fluted segments of the fluted metering section, wherein the equalizing apparatus is operable to detach from

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and re-connect on the metering section without disassembly of the meter roller assembly.

With respect to claim 14, Gregor '515 discloses a method for attaching an equalizing meter apparatus 330, securing a position by use of snap ring 305, detaching the equalizing meter apparatus without disassembling the system and re-connecting the equalizing meter apparatus to the pre-assembled fluted meter sections. To detach the equalizing meter apparatus, the end pieces, 245, 170, 305 and 300 must be removed first, but the components of the metering system itself can remain undisturbed.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gregor '515 in view of Mayerle [US 6,158,630].

Gregor discloses an equalizing metering apparatus as shown above.

However, Gregor does not describe a means by which the equalizing meter apparatus is held in position along the shaft.

Mayerle '630 teaches that use of fastener pins 7 and 26 in Figure 3 to maintain the position of elements along the shaft 11 in a similar metering apparatus. These fasteners are configured to extend through the fastener opening in an apparatus and engage a specific component. It would have been obvious to one skilled in the art at the time the invention was made to <sup>USE</sup> a fastener extending through the shaft to properly adhere the equalizing metering apparatus of Gregor '515 to the desired position along the shaft as taught by Mayerle '630 in order to provide a more secure device.

### ***Allowable Subject Matter***

8. Claims 4-7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. Claims 9-13 and 15-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julianne M. Cozad whose telephone number is 571-272-6946. The examiner can normally be reached on 8-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMC  
9/27/2005



**THOMAS B. WILL**  
Supervisory Patent Examiner  
Group 3600